

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION



UNITED STATES OF AMERICA)	
)	
)	
vs.)	No. 00 CR 878
)	
HENRY McKEE,)	
)	
Defendant.)	


MEMORANDUM OPINION AND ORDER

Back on May 13, 2005, the Court of Appeals ordered a limited remand of defendant's sentence in accordance with United States v. Paladino, 401 F.3d 471 (7th Cir. 2005). We appointed counsel, she responded, and the government replied on October 5, 2005. For some reason we failed to rule, and the Court of Appeals recently reminded this court that it had not completed the limited remand and returned the case. We now rule that we would have imposed the same sentence had we known that the Guidelines were advisory and, therefore, no resentencing is necessary.

Defendant's *pro se* request for a reduction in sentence emphasized his post-conviction rehabilitation. While his efforts are commendable, we cannot consider them in determining whether we should resentence. United States v. Re, 419 F.3d 582 (7th Cir. 2005). We must make a judgment about what we would have done on June 5, 2002, based on the then record, had we known that the Guidelines were advisory. We then recognized that defendant had some very positive attributes. He had, however, steadfastly denied his involvement and had consistently lied under oath. We therefore sentenced the defendant to 112 months, which was

not at the bottom of the Guideline range. We considered that a reasonable sentence then and we continue to adhere to that view.

April 17, 2006.



JAMES B. MORAN
Senior Judge, U. S. District Court